

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4955 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHASHIKANT C SHAH

Versus

AHMEDABAD MUNICIPAL CORPN  
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Appearance:

MR KS ACHARYA for Petitioner

MR SN SHELAT for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/07/96

ORAL JUDGMENT

The petitioner, General Secretary, Ahmedabad Municipal Mazdoor Association, filed this Special Civil Application before this Court challenging therein the award passed by the Industrial Tribunal, in I.T.Ref. No.365/78, on 19.3.83. An industrial dispute has been raised by the petitioner that the oilmen of the light and power plant department, tubewell, drainage pumping station and V.S. Hospital, etc. who are actually

performing the duties of operators, should be designated as "Pump Operators".

2. This industrial dispute has been referred to the Industrial Tribunal for adjudication. In the impugned award, this claim of the union has not been accepted by the Industrial Tribunal, Ahmedabad. The Industrial Tribunal, Ahmedabad, has not accepted the claim of the petitioner on the ground that the oilmen are not doing more or less similar duties as of the pump operators at the pumping station. The claim of the petitioner for the pay-scale of Pump Operators for its members alleged to be working as oilmen/pump mazdoors, was not accepted. The learned counsel for the petitioner contended that the Tribunal has not considered the fact that independently of the industrial dispute raised as well as on the principles of equal pay for equal work, the claim as made may not be sustainable, but the members of the petitioner-association are entitled of the benefits on the basis of I.G. Thakore Award Part-III. The learned counsel for the respondent on the other hand contended that no such claim has been made and as such, the petitioner cannot make out a new case before this Court in a writ filed under Article 226/227 of the Constitution of India.

3. It is not necessary to go on the merits of the contentions made by the learned counsel for the parties as both the counsel for parties have passed a Purshis and prayed therein that this Special Civil Application may be disposed of as per the agreement made therein by them. The counsel for the petitioner has agreed that the Award of the Industrial Tribunal in the case aforesaid be confirmed and this Special Civil Application may be dismissed. It has further been stated in the Purshis that the dismissal of this Special Civil Application shall not come in way of the Labour Court deciding the matter on merits about the claim, if any, made by the workmen about their entitlement to the benefits following from I.G. Thakore Award Part-III. In view of this agreement, this Special Civil Application is dismissed. However, an opportunity is granted to the members of the petitioner to make claim, if they consider necessary, about their entitlement to the benefits following from I.G. Thakore Award Part-III, before the Labour Court, and the dismissal of this Special Civil Application will not come in way of the Labour Court to adjudicate the said claim on merits. Rule discharged. No order as to costs.

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(sunil)